IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1312 OF 2005

Shri. V. Prabhakar Rao ...Petitioner

Vs.

Utopian Exports Ltd. Co. & Anr. ...Respondents

Ms.S.V.Kotwal i/b M.S.Mohite & Anil Dhavale for the Petitioner.
Shri.A.P.Mundargi i/b.Mr.Prasadrao and
Ms.M.M.Deshmukh A.P.P.for the Respondents.

CORAM : A. S. OKA, J.
DATED : JUNE 28, 2005.

P.C.:

1. Heard Counsel appearing for the parties. After arguing the matter for some time, Shri.Mundargi learned Counsel appearing for the Respondent No.1 stated that as pendency of this Petition may delay the trial, the order impugned in this Petition may be set aside and the Petitioner may be permitted to further cross-examine the Complainant in terms of order dated 26th April, 2005 passed by this Court in Criminal Writ Petition No.1203 of 2005. Shri. Mundargi submitted that a specific date may be fixed in the next week on which day the Complainant will make himself available for further cross-examination by the Petitioner. He submitted that an undertaking may be taken from the Petitioner that he will remain present on that day and will cross-examine the Complainant through his

Advocate. Shri. Mundargi further submitted that the Petitioner may be put to terms by directing him to co-operate with learned Trial Judge for early disposal of the trial.

2. Shri. Mohite appearing for the Petitioner stated that he will file an undertaking in writing of all the accused in the case in this Court within a period of one week from today that on the date fixed by this Court the Accused will appear and will start further cross-examination of the Complainant. He stated that the Accused will state in the said undertaking that they will remain present on the various dates fixed in the trial and they will co-operate with learned Trial Judge in early disposal of the trial.

3. The Counsel appearing for the parties suggested that if there is any objection raised to any question in the cross-examination of the Complainant, the learned Judge may be directed to record the deposition in the question and answer form and the objection be ordered to be decided at the time of final arguments. The suggestion is reasonable.

4. The statements made by the learned Counsel appearing for the Petitioner and the Respondent No.1

are accepted. In view of the said statements, I pass the following order:

: O R D E R :

i) The Petitioner is directed to file the undertakings in writing in this Court in terms of the statement made by the learned Counsel appearing for the Petitioner within a period of one week from today.

ii) The impugned order dated 29th April, 2005 passed by the learned Trial Judge is quashed and set aside. The Complainant will appear before the learned Magistrate on 6th July, 2005 for offering himself for further cross-examination by the Petitioner and other Accused. It is made clear that the scope of the cross-examination is restricted in terms of order dated 26th April, 2005 passed by this Court in Criminal Writ Petition No.1203 of 2005.

iii) The Counsel for the parties agree that in case any objection is raised to the questions put by the Accused in the cross-examination of the Complainant, the learned Judge instead of adjudicating upon the objection at that stage will record the cross-examination in the question and answer form and

the objection will be adjudicated upon at the time of final decision of the Complaint.

iv) As directed by this Court by order dated 26th April, 2005 the learned Trial Judge will proceed with the trial as expeditiously as possible.

v) The Petition is disposed of in above terms.

vi) Parties to act upon an authenticated copy of this order.

vii) This Petition will appear on Board on 6th July, 2005 only for ensuring that the direction given to file undertaking is complied with. Place it under the caption of ‘Directions’.

JUDGE